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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 402X)]

Norfolk Southern Railway Company—Abandonment Exemption—in the City of Detroit, Mich.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon rail service in NSR’s Detroit Boat Yard.¹ Specifically, NSR seeks to abandon:

(1) approximately 0.63 miles of track extending from milepost D 1.38 (at switch) to a point without a milepost approximately 3,303 feet to the north; (2) NSR’s common carrier operating interest over approximately 0.49 miles of connecting track jointly owned and operated by NSR and CSX Transportation, Inc. (CSXT), extending from milepost D 1.23 to milepost D 1.72 (near West Jefferson Ave.) in the City of Detroit, Mich. (collectively, Line). CSXT’s right to operate over the jointly owned segment between milepost D 1.23 and milepost D 1.72 will be unaffected by NSR’s abandonment. The Line traverses United States Postal Service Zip Codes 48216, 48222 and 48226.

NSR has certified that: (1) it has moved no local or overhead traffic over the Line for at least two years; (2) overhead traffic on the Line, if there were any, could be

¹ NSR states that it believes its Detroit Boat Yard track is excepted track under 49 U.S.C. § 10906 but it is seeking abandonment authority for that track “out of an abundance of caution, as some historical operation over the tracks may have exhibited some limited indicia of jurisdictional operations.”

rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication), 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies), 49 C.F.R. § 1105.11 (transmittal letter), and 49 C.F.R. §§ 1105.7 and 1105.8 (environment and historic report), have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,² this exemption will be effective on November 9, 2018, unless stayed pending reconsideration. Petitions to stay that do not involve environmental

² The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly available information. See Offers of Financial Assistance, EP 729 (STB served June 29, 2017); 82 Fed. Reg. 30,997 (July 5, 2017).

issues,³ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by October 22, 2018. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by October 30, 2018, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by October 15, 2018. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,800. See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update, EP 542 (Sub-No. 25), slip op. App. B at 13 (STB served Aug. 8, 2018).

hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by September 20, 2019, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at www.stb.gov.

Decided: October 4, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.